IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 18685 of 1995

Dated 22nd August, 2006

Between

Makam Veeraiah ....Petitioner

And

The Government of Andhra Pradesh,
Rep. By District Collector,
Mahabuubnagar District and anr.

....Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 18685 of 1995

ORDER:

This Writ Petition is filed seeking Writ of Mandamus, to direct the first and second respondents not to assign the land admeasuring Ac.8.10 guntas covered by Sy.No.120 of Chukkapur village, Talakondapally Mandal in Mahabubnagar District.

It is the case of the petitioner that the petitioner is the protected tenant of the aforesaid land as defined under the provisions of the A.P.(Telangana area) Tenancy and Agricultural Lands Act, 1950 ('the Act' for brevity). It is stated in the affidavit filed in support of the Writ Petition that the competent authority has already issued ownership certificate under Section 38(e) of the Act,

and, the petitioner is in possession of the said land by virtue of protected tenancy and further certificate issued under Section 38(e) of the Act. It is also stated that the above said land including some other lands covered by Sy.Nos.112, 114, 119, 135, 139 and 141 of Chukkapur village were in possession of the ancestors of the petitioner and the said lands devolved on the petitioner. It is stated that only on the ground that one G. Seethamma has included land in Sy.No.120 of Chukkapur village in the declaration filed by her under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, without conducting any enquiry and without issuing any prior notice to the petitioner, though the petitioner is in actual and physical possession of the same, steps are being taken to assign the said land to the third parties.

Though the Writ Petition is of the year 1995, no counter affidavit is filed on behalf of the respondents.

Even as per the provisions of Section 13 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, the land held by the protected tenant is to be excluded from the holdings and consequent declaration. In any event, when the land is in actual and physical possession of the petitioner by virtue of protected tenancy and ownership certificate was issued under Section 38 (e) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, he cannot be deprived of possession merely on the ground that the land under his occupation is included in the declaration filed by the third parties. In any event, as the petitioner is in possession of the said land, question of assigning the said land to third parties does not arise unless the petitioner is evicted from the land in question by following due process of law. In that view of the matter,

the Writ Petition is disposed of directing the respondents not to assign the land covered by Sy.No.120 of Chukkapur village, admeasuring Ac.8.10 guntas, which is in possession of the petitioner by virtue of ownership certificate issued under Section 38(e) of the Act, in favour of the third parties, unless he is evicted by following due process of law.

Subject to the above direction, the Writ Petition is disposed of. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 22-08-2006.
Msnr.